IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 5191 of 1995

Between:

B.Gangadharam, S/o. Late Mrutyunjayudu, aged 58 years,
retired Government Employee, R/o.26/526, Postal Colony,
Nellore Town Nellore District.

……..PETITIONER

AND

1.A.P.State Civil Supplies Corporation, rep., by its

Vice-Chairman and Managing Director,
Civil Supplies Bhavan, Somajiguda, Hyderabad.
2.The Commissioner of Civil Supplies and Ex-Officio Chairman,

A.P. State Civil Supplies Corporation, Civil Supplies Bhavan,

Somajiguda, Hyderabad.
3.The District Manager, A.P. State Civil Supplies Corporation,
Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in seeking to recover a sum of Rs.16,888 being the value of the stocks found in shortage in the Godown Stock Point at Kavali during the year 1985 and the action of the respondents in not considering the various representations submitted by the petitioner for writing off the shortage and further action of the respondents in not supplying the copies of the alleged resolution passed by the 1st Respondent and the order passed by the 2nd respondent rejecting the representations and appeal of the petitioner as illegal, arbitrary, unjust, violative of principles of natural justice and without jurisdiction and

declare that the petitioner is not liable to pay the said sum since the shortage was within the permissible limits as per the circulars issued by the Food Corporation of India.

Counsel for the Petitioner: MR.P.SRIDHAR REDDY

Counsel for the Respondents.1 to 3: MR. V.T.M.PRASAD AND THE GP FOR CIVIL SUPPLIES

The Court made the following:

ORAL ORDER:

Heard both sides.

2. The present writ petition is filed challenging the Memo, dated 25-06-1992, of the Joint Collector, Nellore, whereby the petitioner was directed to pay a sum of Rs.16,888-01 paise being the value of shortage of 6.560.489 Metric tonnes of Rice found during the month of June, 1985, in the Godown Stock Point where the petitioner was working.

3. The contention of the petitioner, in nutshell, appears to be that when he took charge as in-charge of the Godown, he received certain stock of rice as per the invoices and as per the given position by his predecessor. Subsequently, it was found that there was shortage of 6.560.489 Metric tonnes of rice when his successor took charge. No complaint whatsoever was ever made against the petitioner since 1985 till the present impugned Memo was issued by the Joint Collector, Nellore, directing him to pay a sum of Rs.16,888-01 paise being the alleged value of shortage of 6.560.489 Metric tonnes of Rice found during the month of June, 1985, in the Godown Stock Point where the petitioner was working. The petitioner seems to have made a representation, dated 30-10-1992, to the Commissioner of Civil Supplies and the Chairman, Andhra Pradesh State Essential Commodities

Corporation, Civil Supplies Bhavan, Hyderabad, the second respondent herein. It appears that the second respondent has made some observations and also passed some remarks allegedly in favour of the petitioner. In other words, the petitioner was some how given to understand that the report of the second respondent was in his favour.

4. When a report has been made to the second respondent and the second respondent had already passed some orders, the same should have been communicated to the petitioner notwithstanding the adverse or favourable remarks passed against the petitioner.

5. The further grievance of the petitioner is that in spite of the said favourable orders passed by the second respondent, taking advantage of the situation that the orders passed by the second respondent were not communicated to the petitioner, the impugned Memo had been issued.

6. The third respondent has filed a counter-affidavit, the details of which are not relevant for the present to decide the present writ petition. However, only on the ground that the orders said to have been passed by the second respondent are particularly on the representation made by the petitioner, which have not been communicated to the petitioner, I feel it expedient to set aside the impugned Memo and direct the second respondent to communicate a copy of the orders, if any, passed by him, pursuant to the representation made by the petitioner, to the petitioner and basing on such orders further steps may be taken, if deemed necessary.

7. For the foregoing reasons, the writ petition is allowed setting aside the impugned Memo, dated 25-06-1992, issued by the Joint Collector, Nellore, and the second respondent is directed to communicate a copy of the orders passed by him on the representation made by the petitioner within a period of four weeks from the

date of receipt of a copy of this order and to take appropriate steps basing on such orders, if warranted. However, there shall be no order as to costs.

D.S.R.VARMA, J

30TH SEPTEMBER 2004

NOTE:

Issue C.C. in ten days.

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That Rule Nisi has been made absolute as above.

Witness the Honourable Sri Devinder Gupta, the Chief Justice, on this Thursday the 30th day of September, Two Thousand and Four.

To:

1.A.P.State Civil Supplies Corporation, rep., by its Vice-Chairman and Managing Director, Civil Supplies Bhavan, Somajiguda, Hyderabad.
2.The Commissioner of Civil Supplies and Ex-Officio Chairman, A.P. State Civil Supplies Corporation, Civil Supplies Bhavan, Somajiguda, Hyderabad.
3.The District Manager, A.P. State Civil Supplies Corporation, Nellore, Nellore District.

4.Two C.Cs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT).

5.Two C.D. Copies.